

REMARKS

Claims 1- 42 remain in the referenced application. Claims 3, 6, 7, 9-35, 38, 41, and 42 have been withdrawn from consideration. Claims 1, 2, 4, 5, 8, 36, 37, 39, and 40 have been rejected by the Examiner.

The Examiner states that Applicant has not limited the term “purified water” to water having dissolved solids removed therefrom, as Applicant has utilized the word “includes” in the definition of “purified water.” Applicant’s intent was to define purified water as water having dissolved solids removed therefrom. Since the Examiner does not consider Applicant’s word choice as limiting, Applicant, accordingly, has amended the specification to recite, “Purified water in this preferred embodiment is water having a lower total dissolved solids reading than the water being filtered, preferably with a total dissolved solids reading fifty percent lower than that of the water being filtered, more preferably with a total dissolved solids reading eighty percent lower than that of the water being filtered, and still more preferably with a total dissolved solids reading ninety five percent lower than that of the water being filtered.” Applicant respectfully asserts that no new matter has been entered into the specification because its amendment merely clarifies the meaning of the term “purified water.” As the term “purified water” is now clearly defined in the specification, Applicant respectfully asserts that Applicants arguments of Response “A” regarding the differences between “purified water” and “filtered water” should be persuasive.

Nevertheless, claim 1 stands rejected under 35 U.S.C. §102(e) as being anticipated by McGowan (U.S. Patent No. 6,562,246 - hereinafter referred to as “McGowan”). The Examiner asserts that McGowan discloses a method of cleansing a filter including providing a source of purified water (e.g., via filter 14 stored in accumulator 16), and exposing the filter to purified

water (e.g., via backwashing as shown in Fig. 2). Applicant contends that McGowan does not teach the method steps of Applicant's invention including "providing a source of purified water, and exposing the filter to the purified water." McGowan teaches a "BACKFLUSH SYSTEM" that "filters" a fluid in a flow path, diverts a small portion of the "filtered fluid" from the flow path to a pumping device, pumps the diverted fluid into a pressurized accumulator, and then utilizes the fluid stored in the accumulator as a backflush media in a high pressure backward flow through the filter. Applicant asserts that McGowan's filter does not produce "purified water" as defined by Applicant's disclosure, and therefore, cannot anticipate Applicant's method steps of exposing a filter to purified water.

Applicant reasserts that one of ordinary skill in the art will clearly recognize that a "filter" does not produce "purified water" as defined in Applicant's amended specification. Filters remove particles suspended in a fluid. While they do cleanse the water passing through the filter, they are incapable of purifying the water. The purification of water occurs on the molecular level. Illustratively, water purification using a steam distillation process requires the water to be boiled to evaporate the water molecules, thereby leaving any impurities in the unevaporated portion. The steam is then recaptured and condensed without the impurities. In an alternate purification process, reverse osmosis cartridges include separation membranes that pass water molecules, but do not pass any remaining matter. As such, the water purification processes remove the dissolved solids and the suspended particles, wherein the filters remove only the suspended particles. Accordingly, filters and purification cartridges provide different functions, and are clearly not interchangeable.

McGowan accordingly does not disclose utilizing purified water as a cleansing agent. McGowan clearly recites use of a "filtered fluid" as a backflushing media. Applicant contends

that Applicant's invention discloses utilizing "purified water" as a cleansing agent, and as a backflushing media. Applicant reasserts that "filtered fluid" and "purified water" are not interchangeable terms. Applicant's invention is drawn to the specific use of "purified water" because it has an increased solubility, and therefore, is more effective in the removal of sediment from a filter. Applicant respectfully asserts that "purified water" in Applicant's amended specification is defined as "water having a lower total dissolved solids reading than the water being filtered, preferably with a dissolved solids reading fifty percent lower than that of the water being filtered, and more preferably with a total dissolved solids reading ninety five percent lower than that of the water being filtered." Applicant's invention further defines purified water as being produced by, "any suitable purification process, such as reverse osmosis, steam distillation or deionization." As such, McGowan fails to distinctly recite the steps of providing a source of purified water and exposing the filter to the purified water because McGowan teaches only of filtering a fluid, not purifying the fluid. Applicant, therefore, respectfully submits claim 1 is patentable over McGowan.

Claim 2 stands rejected under 35 U.S.C. §102(e) as being anticipated by McGowan. The Examiner asserts that McGowan discloses a filter cartridge 14 that is cleansed by purified water. Applicant respectfully asserts that claim 2 of Applicant's invention recites cleansing of a filter cartridge with purified water. While McGowan recites backflushing a filter cartridge, he does not teach of cleansing the filter cartridge with purified water. As previously argued, Applicant contends that "filtered fluid" and "purified water" are not interchangeable terms. Applicant's invention is drawn to the specific use of "purified water" because it has an increased solubility, and therefore, is more effective in the removal of sediment from a filter. Accordingly, Applicant respectfully submits claim 2 is patentable over McGowan.

Claim 8 stands rejected under 35 U.S.C. §102(e) as being anticipated by McGowan. The Examiner asserts that McGowan discloses backwashing the filter with purified water (see Fig. 2). Applicant respectfully reasserts that McGowan does not recite the use of “purified water” as a backflush media. As previously argued, a “filtered fluid” and “purified water” are not identical in form. Applicant’s invention is drawn to the specific use of purified water because it has an increased solubility. McGowan discloses the use of a “filtered fluid” as a backflush media. Applicant therefore asserts that claim 8 is patentable with claim 1.

Claim 36 stands rejected under 35 U.S.C. §102(e) as being anticipated by McGowan. The Examiner asserts that McGowan discloses the method steps of “a) switching an inlet valve 22, a drain valve 46, and a flush valve 36 in a filtered flow path from a primary flow path used for dispensing operations to a secondary flow path, therein allowing purified water into the filtered flow path; b) flowing the purified water in the secondary flow path, wherein the secondary flow path allows the purified water to flow backwards through the filter for a predetermined interval to remove or dissolve filtered media or unclog a filter in the primary flow path; and c) switching the inlet valve 22, the drain valve 46, and the flush valve 36 from the secondary flow path to the primary flow path to resume dispensing operations (See Fig. 1).” Applicant has previously established that McGowan does not recite the use of “purified water” as a backflush media. McGowan teaches the use of a fluid filtered from a flow path for use as the backflush media. Applicant contends that Applicant’s invention is drawn to the specific use of purified water because it has an increased solubility, and therefore, is more effective in the removal of sediment from a filter. As McGowan does not teach the use of “purified water” as a backflushing media, McGowan clearly cannot anticipate claims that recite the use of “purified

water” as the backflushing media. Accordingly, Applicant asserts that claim 36 is patentable over McGowan.

Claim 37 stands rejected under 35 U.S.C. 102(e) as being anticipated by McGowan. Applicant contends that claim 37 is patentable, as it depends from a claim reciting the use of “purified water” to flow backwards through the filter. McGowan does not teach the use of “purified water” in his backflush device, and therefore cannot anticipate Applicant’s claims 36 and 37.

Claims 4, 5, 39, and 40 stand rejected under 35 U.S.C. 103(a) as being unpatentable over McGowan in view of Hisada, et al. (hereinafter Hisada). The Examiner acknowledges that McGowan fails to specify the flush source as containing water having a lower total dissolved solids reading less than the water being filtered, including at least 50% less. Applicant agrees with the Examiner’s acknowledgement that McGowan fails to specify a flush source containing “purified water,” as McGowan produces “filtered water.” Filtering water does not produce “purified water.” “Purified water” is a product of water purification processes. The Examiner has attempted to combine McGowan and Hisada to create a filter backflush device, wherein the filter produces purified water, such that the filter is backflushed with the purified water.

Applicant respectfully asserts that the replacement of McGowan’s filter with Hisada’s separation membrane creates a device for backflushing Hisada’s separation membrane, not a filter. Claim 1 of Applicant’s invention is drawn to the cleansing of a filter with purified water, not the backflushing of a separation membrane. Applicant exposes a filter to purified water to cleanse the filter because purified water achieves significantly enhanced cleansing as per Applicant’s disclosure on page 5, lines 19-23, and page 6, lines 1-5. As previously argued, a filter is not a separation membrane, and may not be used interchangeably. Thus, the replacement

of McGowan's filter with Hisada's separation membrane produces a device that backflushes the separation membrane, and does not include a filter.

Alternatively, Applicant respectfully asserts that using Hisada's separation membrane in combination with McGowan's filter still does not create a device for cleansing a filter with purified water. McGowan discloses backflushing a filter with filtered water. Hisada discloses backflushing a membrane with purified water. Consequently, neither McGowan nor Hisada teach cleansing a filter with purified water. A device with both McGowan's filter and Hisada's separation membrane would still only flush McGowan's filter with filtered water and Hisada's separation membrane with membrane water because there simply is no disclosure in either reference of cleansing a filter with purified water.

Moreover, Applicant respectfully submits its own specification contains the only disclosure of "cleansing a filter with purified water." As such, Applicant contends that any combination of McGowan in view of Hisada fails because it is not possible to achieve the cleansing of McGowan's filter with Hisada's membrane water without Applicant's disclosure. There simply is no reason to combine McGowan and Hisada, other than to create Applicant's invention, because neither reference discloses that cleansing a filter with purified water achieves significantly enhanced cleansing results. The combination of McGowan and Hisada is clearly an impermissible hindsight reconstruction of Applicant's invention because neither McGowan nor Hisada discloses cleansing a filter with purified water, the disclosure of which is contained only in Applicant's specification. Applicant, accordingly, respectfully requests that the rejections of claims 4, 5, 39, and 40 be withdrawn, as the combination of McGowan in view of Hisada fails to provide a "filter cleansing device, wherein the flush source contains water having a total dissolved solids reading less than the water being filtered."

The prior art made of record has been reviewed by Applicant and is deemed not to anticipate nor render obvious the claimed invention.

In view of the foregoing, Applicant respectfully requests reconsideration of the rejected claims, and solicits early allowance of the subject application.

Respectfully submitted,

LAW OFFICES OF CHRISTOPHER L. MAKAY
1634 Milam Building
115 East Travis Street
San Antonio, Texas 78205
(210) 472-3535

DATE: 22 September 2005

BY: 

Christopher L. Makay
Reg. No. 34,475

ATTORNEY FOR APPLICANT

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" Service under 37 C.F.R. §1.10 on the date indicated below, addressed to the COMMISSIONER FOR PATENTS, P.O. Box 1450, Alexandria, VA. 22313-1450.

Express Mail No. EV617705955 US Date: 22 September 2005


John Vija